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Lowell W. Paxson / Chairman

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May 12, 2003

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The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

Re: Full Digital Multicast Must Carry
CS Docket 98-120

Dear Chairman Powell:

On behalf of Paxson Communications Corporation ("PCC"), I am writing you and your fellow Commissioners to respond to the Comments of A&E Television Networks ("A&E") that were filed on April 21, 2003, in the Commission's Second DTV Biennial Review proceeding. I would initially note that A&E did not address any of the important DTV operational and transition issues for which the Commission actually sought comment. To the contrary, A&E filed Comments that consist of little more than a diatribe against the must-carry scheme enacted by Congress in 1992, upheld by the Supreme Court in 1997, and enforced by the FCC for over 10 years. As such, A&E's Comments add nothing to the DTV Biennial Review process but must be addressed in order to correct the record on full digital multicast must-carry.

The dubious procedural posture of A&E's Comments is, unfortunately, the least flawed aspect of its submission. To begin with, A&E erroneously suggests that PCC advocates simultaneous cable carriage of both analog and DTV signals. As you and your fellow Commissioners are well aware, dual carriage is not PCC's position. To the contrary, PCC has demonstrated time and again that that statute and the underlying congressional intent mandate nothing more than, and nothing less than, carriage of a broadcast television station's entire broadcast signal, without regard to whether that signal is in an analog format or in a digital format – in short, carriage parity between analog and digital.

A&E's mistaken reading of PCC's position appears to result from its erroneous impression that mandatory carriage of *both* an analog signal *and* a digital signal imposes the same technical burdens and therefore implicates the same legal issues as mandatory carriage of *either* an analog signal *or* a digital signal. This is plainly not the case, and PCC is compelled to set the record straight.

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Although we may be years away from the close of the DTV transition, the largest media companies already have had some success in obtaining cable carriage of the entirety of their television stations' digital signals. The largest companies, therefore, are assured of cable carriage of their multicast offerings, while broadcasters who depend on must-carry rights currently have no such assurances. Carriage parity, therefore, not only ensures parity of analog and digital signals, it also ensures parity between the largest media companies and those broadcasters who are affiliated with emerging networks such as PAXTV or who offer independent, noncommercial, religious, and foreign-language programming. In short, carriage parity promotes diversity, localism, competition, and viewer choice – that is, the very same interests promoted by carriage of a broadcaster's entire analog signal, and the very same interests that underlie the Commission's own mandate.

In closing, we ask that you envision the world that A&E asks the Commission to create. In this world, television stations that are not owned by the largest media companies will lose their ability to provide all of their free, over-the-air video programming to the large majority of their local audiences. This in turn will make such stations less likely to compete against those whose carriage of their multicast offerings have been secured by their large corporate owners.

In A&E's preferred world, the winners are those television stations owned by companies such as Disney, NBC, and Hearst – companies that, perhaps not coincidentally, also own A&E. Their competitive victories will produce many losers, however, most notably the local viewers who lose local programming diversity and choices that otherwise could be provided by the television stations whose full signals are not carried by local cable operators.

Such a world is not difficult to imagine. It is, of course, the very situation that Congress sought to eliminate through its enactment of the 1992 Cable Act.

Very truly yours,

Lowell W. Paxson

Chairman and CEO

Paxson Communications Corporation

cc: Honorable Kathleen Q. Abernathy
Honorable Michael J. Copps
Honorable Kevin J. Martin
Honorable Jonathan S. Adelstein